

## **IMPROVING RESIDENTIAL PHONE SERVICE**

### **XVII. InterLATA Services Pricing**

49. Bell Atlantic/GTE shall not institute mandatory, minimum monthly or flat-rate charges on interLATA calls. Specifically, subject to any applicable state regulatory requirements, Bell Atlantic/GTE and its affiliates shall not charge wireline residential consumers a minimum monthly or minimum flat rate charge on interLATA long distance service similar to the charge that is currently assessed by some interexchange carriers.

a. Bell Atlantic/GTE and its affiliates shall not charge a minimum monthly or minimum flat rate charge (as described in this Paragraph) on interLATA services provided to any in-region or out-of-region wireline residential customer within the United States.

b. This Section shall become effective on the first day after the Merger Closing Date. In the GTE states, Bell Atlantic/GTE's obligations under this Section shall end 36 months after the Merger Closing Date. In each of the Bell Atlantic States (including Pennsylvania and Virginia), Bell Atlantic/GTE's obligations under this Section shall end 36 months after Bell Atlantic is authorized to provide interLATA services pursuant to 47 U.S.C. §271(d)(3).

c. This Section shall not prohibit Bell Atlantic/GTE or any of its affiliates from passing through to its customers any fees, charges, or taxes (including taxes on Bell Atlantic/GTE's own charges) imposed or authorized by a federal, state, or other governmental entity and imposed on Bell Atlantic/GTE or any of its affiliates as a result of its provision of interLATA services to its customer. Nor shall this Section prohibit Bell Atlantic/GTE from offering customers an optional, voluntary interLATA services pricing plan that includes a minimum monthly or minimum flat-rate charge, or a pre-paid calling card.

#### **XIV. Enhanced Lifeline Plans**

50. Not later than 30 days after the Merger Closing Date, Bell Atlantic/GTE shall offer by letter to the appropriate state commission in the Bell Atlantic and GTE States to file a tariff for an enhanced Lifeline plan in the Bell Atlantic/GTE Service Area within that state. Bell Atlantic/GTE may fulfill this requirement in a state by either (i) proposing a new, stand-alone Lifeline plan that meets the requirements of this Paragraph, (ii) proposing to provide additional discounts and/or other enhancements to an existing Lifeline plan in a state which, when combined with the Lifeline benefits provided by the existing plan, meet the requirements of this Paragraph, or (iii) certifying that the existing Lifeline plan (or plans) meets the requirements of this Paragraph. No state shall be required to accept the enhanced Lifeline plan that will be offered by Bell Atlantic/GTE. Copies of Bell Atlantic/GTE's written offers shall be filed with the Secretary of the Commission. Consistent with applicable state law, the terms and conditions offered by Bell Atlantic/GTE shall be comparable to the terms and conditions of the Ohio Universal Service Assistance ("USA") Lifeline plan set forth in Ameritech Ohio's Alternative Regulation Plan, as in effect on January 27, 2000, in the areas of subscriber eligibility, discounts, and eligible services. See Opinion and Order, Application of the Ohio Bell Tel. Co. for Approval of an Alternative Form of Regulation, Case No. 93-487-TP-ALT, 1994 Ohio PUC LEXIS 956 (Nov. 23, 1994), as modified to be consistent with the 1996 Telecommunications Reform Act and other modifications and interpretations by the Public Utilities Commission of Ohio, as in effect on January 27, 2000, in the areas of subscriber eligibility, discounts, and eligible services. Specifically, with respect to discounts, Bell Atlantic/GTE will provide a discount equal to the price of basic residential measured rate service (i.e., access to the network not including any local usage) in each state; provided, however, that the maximum discount to be provided (including all applicable Federal, state and Company contributions) shall not exceed \$10.20 per month. For example, if the current Lifeline discount in a state is \$8.00 per month, Bell Atlantic/GTE will increase that discount by a maximum of \$2.20 per month for those Lifeline customers that meet all of the qualifications in this Paragraph. This Paragraph is not intended to supersede or eliminate state or federal funding for existing Lifeline programs. Where, for a particular state, Bell Atlantic/GTE does not offer a basic measured rate service that does not include any local usage, to determine the amount of the discount, Bell Atlantic/GTE will determine an estimated price for such a service as a percentage (based on underlying costs) of the most basic service that is offered. If the state commission indicates its acceptance of Bell Atlantic/GTE's offer within 12 months of Bell Atlantic/GTE's written offer, Bell Atlantic/GTE shall file a tariff to implement its offer within 60 days of such acceptance. Bell Atlantic/GTE shall offer to provide such enhanced Lifeline plans with the following operational characteristics:

a. Past-Due Bills. Enhanced Lifeline plan customers with past-due bills for local service charges will be offered payment arrangements for such local service charges with an initial payment not to exceed \$25.00 before service is installed and with the balance to be paid in 6 equal monthly payments. Enhanced Lifeline plan customers with past-due bills for toll service charges will be required to have toll restriction service until such past-due toll service charges have been paid.

b. Deposits. New enhanced Lifeline plan customers will not be required to pay a deposit to obtain local service. Bell Atlantic/GTE may request a deposit for toll service unless the customer elects toll restriction service.

c. Verification of Eligibility. Bell Atlantic/GTE will provide prospective enhanced Lifeline plan customers with a written form<sup>88</sup> that will permit the customer to self-verify eligibility through participation in one or more of the qualifying programs. Bell Atlantic/GTE will have the right to audit any such self-verifications and to refuse enhanced Lifeline service to any customer that is not a current participant in one of the eligible programs. Bell Atlantic/GTE will provide quantities of such written forms to state agencies administering qualifying programs so that these agencies, if they choose, can make these forms available to their clients.

d. On-Line Verification of Eligibility. Bell Atlantic/GTE will negotiate in good faith with appropriate state agencies administering qualifying programs to acquire on-line access to the agencies' electronic databases for the purpose of accessing the information necessary to verify a customer's participation in an eligible program. Where such on-line access can be negotiated on reasonable terms and conditions that permit Bell Atlantic/GTE to access such information efficiently, Bell Atlantic/GTE will provide on-line verification of eligibility for a customer claiming (during a discussion with a Bell Atlantic/GTE service representative) to be a current participant in one of the eligible programs.

e. Publicity. Bell Atlantic/GTE will agree to spend no less than an annual promotional budget to make potential customers aware of the enhanced Lifeline plan or other programs that benefit low income consumers. The annual promotional budget for each state (shown in Attachment G) is calculated to be proportional (based on the relative number of residence access lines that Bell Atlantic/GTE has in service in each state) to the \$122,000 annual promotional budget established as part of the USA Lifeline Plan in Ohio.

f. Toll-Free Number for Lifeline Inquiries. Bell Atlantic/GTE will provide a toll-free telephone number (e.g., an 800 number) for current and potential enhanced Lifeline plan customers to call for subscribing to, or otherwise requesting information or assistance about, the enhanced Lifeline plan.<sup>89</sup>

g. Toll-Free Fax Line for Receiving Lifeline Documentation. Bell Atlantic/GTE will provide a toll-free fax line for current and potential enhanced Lifeline plan customers to submit documentation associated with the enhanced Lifeline plan.

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<sup>88</sup> These forms will be provided in English and such other languages as are prevalent in the applicable area served by Bell Atlantic/GTE.

<sup>89</sup> Bell Atlantic/GTE will endeavor to respond to inquiries made in non-English languages which are prevalent among residents in the areas served by Bell Atlantic/GTE.

h. Lifeline Message on Voice Response Units ("VRUs"). Where Bell Atlantic/GTE utilizes a VRU to answer customer calls into a service center, Bell Atlantic/GTE will, where it is technically possible to do so, include information about the enhanced Lifeline plan on the VRU menu after the customer indicates an interest in obtaining new service.

i. Upgrading Current Lifeline Customers. Where a state that already has a Lifeline plan determines to offer the enhanced Lifeline plan described in this Paragraph, and where the enhanced Lifeline plan offers a larger discount and in all other respects no worse terms and conditions to an existing Lifeline customer, Bell Atlantic/GTE shall switch qualifying customers (i.e., customers who have provided Bell Atlantic/GTE with sufficient verification that they participate in a qualifying program) to the enhanced Lifeline plan within 180 days of implementing the enhanced Lifeline plan.

j. Timing. The obligations contained in the above Subparagraphs shall not take effect until and unless the Enhanced Lifeline tariffs are accepted and approved by a state commission.

### **XIX. Additional Service Quality Reporting**

51. Beginning no later than 180 days after the Merger Closing Date for the Bell Atlantic/GTE Service Area in all Bell Atlantic/GTE States, Bell Atlantic/GTE shall file with the Reporting Management Staff of the Commission for the public record, on a quarterly (i.e., January-March, April-June, etc.) basis, state-by-state service quality reports in accordance with the retail service quality reporting recommendations of the NARUC Technology Policy Subgroup "Service Quality White Paper" adopted November 11, 1998. Answer time performance may be reported on a multi-state basis in accordance with the consolidated handling of some calls by Bell Atlantic/GTE call centers. Each such quarterly report shall be filed no later than 50 days after the end of the quarter covered by the report. The first report filed for each state shall cover the most recent quarter that ended at least 50 days prior to the date the report is due. Categories of reporting for retail services include installation and maintenance, switch outages, transmission facility outages, service quality-related complaints, and answer time performance. Reports shall be filed for a period of 36 months following the date of Bell Atlantic/GTE's first report for that state. A copy of each report for a state shall be included on a Bell Atlantic/GTE Internet website or provided to the relevant state commission.<sup>90</sup>

52. Bell Atlantic/GTE shall report on a quarterly basis ARMIS local service quality data required by the Commission separately for each of its operating companies. Bell Atlantic/GTE shall provide service quality data in accordance with Table 1 of ARMIS Report No. 43-05 on a quarterly basis. The service quality data required by this Paragraph shall be

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<sup>90</sup> The web address containing a list of the reports and direct links to them must be provided to the Commission and to each state commission.

included on a Bell Atlantic/GTE Internet website or made available to state commissions in the Bell Atlantic/GTE States.<sup>91</sup>

53. Bell Atlantic/GTE shall report, on a disaggregated, company-specific basis, certain of the service quality data described in Table I of ARMIS Report No. 43-05 to show the service levels it provides to Genuity as compared to other companies<sup>92</sup> purchasing its high-speed special access and regular special access services. Specifically, Bell Atlantic/GTE shall report performance data for the following measurements for these services on a monthly basis: the percent of commitments met; the average interval (in days); the average interval to repair service (in hours); and the trouble report rate. Bell Atlantic/GTE shall also report performance data for the following measure: average delay days due to lack of facilities.<sup>93</sup> No later than 30 days after Merger Closing Date, Bell Atlantic/GTE shall, in consultation with the Chief of the Common Carrier Bureau, modify these measurements and develop any applicable performance measurement business rules to the extent necessary. Any developed business rules, once approved by the Chief of the Common Carrier Bureau, will be made publicly available. Bell Atlantic/GTE will begin providing, on a proprietary basis, the performance data on these five measures to the Commission and to the independent auditor 60 days after Merger Closing Date. To the extent its separate advanced services affiliate begins providing such services to Genuity, the requirements in this paragraph apply to the separate affiliate as well. The requirements in this paragraph shall cease to apply once Bell Atlantic/GTE has obtained section 271 approvals representing 95% of its in-region access lines or no longer has the right to convert its Genuity Class B shares into greater than a 10 percent interest.<sup>94</sup>

## **XX. NRIC Participation**

54. Bell Atlantic/GTE shall continue to participate in the Network Reliability and Interoperability Council ("NRIC"), or a successor organization, if any.

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<sup>91</sup> See *supra* n.90.

<sup>92</sup> Bell Atlantic/GTE will report on its provision of these services to all companies, including Internet service providers, Internet backbone providers and interexchange carriers.

<sup>93</sup> This measurement is designed to track average calendar days from due date to completion date on company missed orders due to lack of facilities.

<sup>94</sup> See Appendix B.

**ENSURING COMPLIANCE WITH  
AND ENFORCEMENT OF THESE CONDITIONS**

**XXI. Compliance Program**

55. Bell Atlantic/GTE shall establish a Compliance Program as follows:

a. Bell Atlantic/GTE shall appoint a senior corporate officer to oversee Bell Atlantic/GTE's implementation of, and compliance with, these Conditions; to monitor Bell Atlantic/GTE's compliance program and progress toward meeting the deadlines specified herein; to provide periodic reports regarding Bell Atlantic/GTE's compliance as required by these Conditions; to ensure that payments due under these Conditions are timely made; and to consult with the Chief of the Common Carrier Bureau and other appropriate individuals as the Chief deems necessary on an ongoing basis regarding Bell Atlantic/GTE's compliance with these Conditions. The corporate compliance officer shall provide copies of all notices Bell Atlantic/GTE provides to the Commission or a state commission to the independent auditor required under Paragraph 56 and shall consult with the independent auditor regarding Bell Atlantic/GTE's progress in meeting the deadlines and milestones specified in these Conditions. The corporate compliance officer may be the same corporate officer with responsibility for Bell Atlantic/GTE's compliance with Section 272 obligations. The audit committee of Bell Atlantic/GTE's Board of Directors shall oversee the corporate compliance officer's fulfillment of these responsibilities. The requirements of this Subparagraph shall remain in effect until all other Conditions have expired.

b. Not later than 60 days after the Merger Closing Date, Bell Atlantic/GTE shall submit to the Common Carrier Bureau's Audit Staff ("Audit Staff") for review and comment a plan for compliance with these Conditions. The compliance plan shall be afforded confidential treatment in accordance with the Commission's normal processes and procedures. A letter providing notice of the filing shall be filed the same day with the Secretary of the Commission for the public record. Bell Atlantic/GTE will make a redacted version of the compliance plan publicly available.

c. Following the Merger Closing Date, Bell Atlantic/GTE shall submit to the Audit Staff and file for the public record (except for materials for which confidential treatment is requested) an annual compliance report detailing Bell Atlantic/GTE's compliance with these Conditions during the preceding calendar year. This annual compliance report shall be submitted no later than March 15 (or the first business day thereafter) of the calendar year following the year covered by the report. A report shall be filed for each calendar year in which Bell Atlantic/GTE is subject to obligations under other Sections of these Conditions. The annual compliance report shall address Bell Atlantic/GTE's compliance with these Conditions and the sufficiency of Bell Atlantic/GTE's internal controls for complying, shall include a discussion of the efficiencies realized as a result of the merger, and shall be prepared in a format substantially similar, in relevant respects, to the format of the independent auditor's section of the audit report described in Subparagraph 56f, below.

## **XXII. Independent Auditor**

56. Bell Atlantic/GTE shall, at its own expense, annually engage an independent auditor to conduct an examination engagement resulting in a positive opinion (with exceptions noted) regarding Bell Atlantic/GTE's compliance with all these Conditions (and also shall perform the audit of Bell Atlantic/GTE's divestiture of Genuity and the sufficiency of Bell Atlantic/GTE's internal controls designed to ensure compliance with such Conditions, except as noted in Paragraph 57, below. The first annual examination engagement shall exclude compliance with Section VIII. Bell Atlantic and GTE shall jointly engage an independent auditor for this purpose prior to the Merger Closing Date. The engagement shall be supervised by persons licensed to provide public accounting services and shall be conducted in accordance with the relevant standards of the AICPA. The independent auditor shall be acceptable to the Chief of the Common Carrier Bureau and shall not have been instrumental during the past 24 months in designing all or substantially all of the systems and processes under review in the audit, viewed as a whole. An independent auditor's report shall be filed for each calendar year in which Bell Atlantic/GTE is subject to obligations under other Sections of these Conditions, provided that no report shall be due if that report would cover a portion of a calendar year that is less than 60 days. In that event, the period of less than 60 days shall be audited in the report covering the subsequent calendar year, if any. The independent auditor's report (which may consist of multiple reports) shall be prepared and submitted as follows.

a. Not later than 60 days after the Merger Closing Date, the independent auditor shall submit a preliminary audit program, including the proposed scope of the audit and the extent of compliance and substantive testing, to the Audit Staff. The preliminary audit program shall be afforded confidential treatment in accordance with the Commission's normal processes and procedures. The independent auditor shall consult with the Common Carrier Bureau's Audit Staff and Bell Atlantic/GTE regarding changes to the preliminary audit program, but approval by the Audit Staff shall not be required.

b. During the course of the audit, the independent auditor shall inform the Audit Staff of any revisions to the audit program; notify the Audit Staff of any meetings with Bell Atlantic/GTE in which audit findings are discussed; and consult with the Common Carrier Bureau regarding any accounting or rule interpretations necessary to complete the audit. The independent auditor shall notify Bell Atlantic/GTE of any consultation with the Common Carrier Bureau regarding accounting or rule interpretations.

c. The independent auditor shall have access to books, records, and operations of Bell Atlantic/GTE and its affiliates that are under the control of Bell Atlantic/GTE and are necessary to fulfill the audit requirements of this Section. The independent auditor shall notify Bell Atlantic/GTE's compliance officer of any inability to obtain such access. The auditor may notify the Audit Staff if access is not timely provided after notification to the compliance officer.

d. The independent auditor may verify Bell Atlantic/GTE's compliance with these Conditions through contacts with the Commission, state commissions, or Bell Atlantic/GTE's wholesale customers, as appropriate.<sup>95</sup>

e. The independent auditor may consult with Bell Atlantic/GTE's corporate compliance officer concerning matters that arise during the course of the year regarding these Conditions. If necessary after such consultation, the independent auditor may notify the Audit Staff of these matters. No later than June 1 (or the first business day thereafter) of the year following the calendar year covered by the audit, the independent auditor shall submit its final audit report for the preceding year to the Audit Staff. The independent auditor's report shall be made publicly available.

f. The independent auditor's report(s) shall include a discussion of the scope of the work conducted; a statement regarding Bell Atlantic/GTE's compliance or non-compliance with these Conditions; a statement regarding the sufficiency of Bell Atlantic/GTE's internal controls for complying with these Conditions; a statement regarding the accuracy of Bell Atlantic/GTE's annual compliance report for the year covered by the audit; a statement regarding the timeliness and accuracy of the notices provided to the Commission or its staff pursuant to specific notification requirements of these Conditions; a statement regarding the accuracy and completeness of the performance data provided to telecommunications carriers and regulators under these Conditions; and a description of any limitations imposed on the auditor in the course of its review by Bell Atlantic/GTE or other circumstances that might affect the auditor's opinion.

g. For 24 months following submission of the final audit report, the Commission and state commissions in the Bell Atlantic/GTE States shall have access to the working papers and supporting materials of the independent auditor at a location in Washington, D.C. that is selected by Bell Atlantic/GTE and the independent auditor. Copying of the working papers and supporting materials by the Common Carrier Bureau shall be allowed but shall be limited to copies required to verify compliance with and enforce these Conditions. Any copies made by the Common Carrier Bureau shall be returned to Bell Atlantic/GTE by the Common Carrier Bureau. The Common Carrier Bureau's review of the working papers and supporting materials shall be kept confidential pursuant to the Commission's rules and procedures. Prior to obtaining access to the working papers and supporting materials, state commissions shall enter into a protective agreement with the Chief of the Common Carrier Bureau and Bell Atlantic/GTE under which the state commission's review, including any notes, shall be kept confidential.

h. Not later than 60 days following submission of the final audit report, Bell Atlantic/GTE and the Audit Staff shall meet and confer regarding changes to the detailed audit program for the subsequent year's audit.

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<sup>95</sup> The term "wholesale customers" includes, but is not limited to, telecommunications carriers that purchase interconnection, services or unbundled elements under tariffs, interconnection agreements or any other means for use in the telecommunications services offered by such telecommunications carriers.



57. Bell Atlantic/GTE shall, at its own expense and under the same retention timetable set out in Paragraph 56, annually engage an independent auditor to perform an agreed-upon procedures engagement regarding compliance with the separate Advanced Services affiliate requirements of Section I of these Conditions. The independent auditor shall be acceptable to the Chief of the Common Carrier Bureau and shall not have been instrumental during the preceding 24 months in designing all or substantially all of the systems and processes under review in the audit, viewed as a whole. The independent audit shall be supervised by persons licensed to provide accounting services and shall be conducted in accordance with the relevant standards of the AICPA. For purposes of the engagement required by this Subparagraph, the Commission and Bell Atlantic/GTE shall be the only specified users; the Chief of the Common Carrier Bureau and Bell Atlantic/GTE must both consent to the audit methods and procedures to be used; and the independent auditor must accept those methods and procedures. In the event such mutual consent cannot be obtained, an independent third-party panel of auditors will be selected by Bell Atlantic/GTE and the Chief of the Common Carrier Bureau and paid for by Bell Atlantic/GTE to arbitrate any dispute. An independent auditor's report shall be filed for each calendar year in which Bell Atlantic/GTE is subject to separate affiliate obligations under Section I, provided that no report shall be due if that report would cover a portion of a calendar year that is less than 60 days. In that event, the period of less than 60 days shall be audited in the report covering the subsequent calendar year, if any. The independent auditor's report shall be prepared and submitted as described in Subparagraphs 56b-h, above, except that the report shall be submitted no later than May 1 (or the first business day thereafter) of the year following the year covered by the audit. Bell Atlantic/GTE and the Chief of the Common Carrier Bureau, working with the independent auditor selected by Bell Atlantic/GTE, shall make good-faith efforts to determine the procedures to be used in the engagement no later than 120 days after the Merger Closing Date. In determining the procedures to be used, Bell Atlantic/GTE and the Chief of the Common Carrier Bureau shall give due consideration to the procedures established for biennial audits under 47 U.S.C. § 272(d).

### **XXIII. Enforcement**

58. The specific enforcement mechanisms established by these Conditions do not abrogate, supersede, limit, or otherwise replace the Commission's powers under the Communications Act. Performance or non-performance of these Conditions by Bell Atlantic/GTE does not in itself constitute compliance or non-compliance with any federal, state, or local law or regulation, except Bell Atlantic/GTE's obligation to perform these Conditions. The payments for non-performance specifically required by these Conditions, to which Bell Atlantic/GTE has voluntarily agreed, are payments in the public interest and are not penalties, forfeitures, or fines.

59. If the Chief of the Common Carrier Bureau makes a determination that Bell Atlantic/GTE has during the effective period of a Condition failed to comply with that Condition, the Bureau Chief may, at his or her discretion, extend the effective period of that Condition for a period that does not exceed the period during which Bell Atlantic/GTE failed to comply with the Condition. If the failure to comply that causes the Bureau Chief to extend a Condition also has

had the effect of denying a person or entity access to a facility or service or the intended benefit required to be provided under another of these Conditions, the Bureau Chief may, in his or her discretion, extend the period during which Bell Atlantic/GTE is required to comply with the other Condition for a period that does not exceed the period during which access to the facility or service or intended benefit was unavailable. Bell Atlantic/GTE may appeal the Bureau Chief's decisions made pursuant to this Paragraph to the Commission.

60. Bell Atlantic/GTE shall be strictly obligated to make the payments for non-performance specifically required by these Conditions, and no showing of a willful violation shall be necessary in order to enforce such payments. Bell Atlantic/GTE shall not be liable for any payments, however, if the Chief of the Common Carrier Bureau grants a waiver request filed by Bell Atlantic/GTE in which Bell Atlantic/GTE will have the burden of proof to demonstrate that the failure to meet a condition was caused by a force majeure event or an Act of God. If the Chief of the Common Carrier Bureau refuses to grant a waiver, Bell Atlantic/GTE may appeal that decision to the Commission.

61. Except as otherwise provided in these Conditions, Bell Atlantic/GTE shall make payments due under these Conditions within 10 business days of a determination by Bell Atlantic/GTE's compliance officer, the Chief of the Common Carrier Bureau, the Commission, or an arbitrator, that payment is due. If the Commission or a state commission has not taken an action to designate or administer a fund that is required in order for Bell Atlantic/GTE to make a payment required under these Conditions, Bell Atlantic/GTE shall make its payment into an interest bearing escrow account pending such action. If Bell Atlantic/GTE's obligation to make a payment is disputed by Bell Atlantic/GTE, Bell Atlantic/GTE shall make the disputed payment into an interest bearing escrow account within 10 business days of the date the payment was due. Within 10 business days of making a payment of a disputed amount into escrow, Bell Atlantic/GTE shall file with the Commission a verified statement of the grounds on which payment is not required. Subject to rights of rehearing and appeal, the escrowed payments (including any accrued interest) shall be returned to Bell Atlantic/GTE or paid to the appropriate fund in accordance with the final and non-appealable Commission or judicial order resolving the dispute. A decision by the Chief of the Common Carrier Bureau under this Paragraph is appealable to the Commission.

62. The Chief of the Common Carrier Bureau may in his or her discretion, upon a request and showing of good cause by Bell Atlantic/GTE, grant extensions of deadlines established by these Conditions.

63. Bell Atlantic/GTE shall not be excused from its obligations under these federal Conditions on the basis that a state commission lacks jurisdiction under state law to perform an act specified or required by these Conditions (e.g., review and approve interconnection agreement amendments, or determine if telecommunications providers violate requirements associated with the promotional discounts).

#### **XXIV. Sunset**

64. Except where other termination dates are specifically established herein, all Conditions set out in this Appendix, except for the Conditions requiring Bell Atlantic/GTE to provide Advanced Services through one or more separate affiliates, as set out in Section I, shall cease to be effective and shall no longer bind Bell Atlantic/GTE in any respect 36 months after the Merger Closing Date, unless the Commission orders that a Condition or Conditions be extended for noncompliance reasons in accordance with Paragraph 59 above. Unless specifically stated otherwise, it is intended that each of the Conditions will generate 36 months of benefit. Since some of the Conditions will not become effective or operational until sometime after the Merger Closing Date, such Conditions will remain in effect (as specified) longer than 36 months after the Merger Closing Date.

#### **XXV. Effect of Conditions**

65. The various offerings and initiatives contained in these Conditions, including but not limited to the carrier-to-carrier promotions, OSS requirements and performance monitoring Conditions, may substantially duplicate requirements imposed in connection with the merger under state law. These Conditions shall supplement, but shall not be cumulative of, substantially related conditions imposed under state law. Where both these Conditions and conditions imposed in connection with the merger under state law grant parties similar rights against Bell Atlantic/GTE, affected parties shall not have a right to invoke the relevant terms of these Conditions in a given state if they have invoked a substantially related condition imposed on the merger under state law. For example, telecommunications carriers requesting unbundled local loops for residential service under promotional terms offered pursuant to state approval of the merger would not also be able to invoke the promotional discounts on unbundled loops required by these Conditions. Furthermore, any unbundled local loops provided by Bell Atlantic/GTE for residential service under a substantially similar merger-related state commission imposed promotion in a given state would be deducted from the number of unbundled local loops required to be provided in that state under Section XI of these Conditions. This Section shall not limit the Commission's powers to enforce these Conditions or the reporting requirements of Bell Atlantic/GTE under these Conditions.

66. When considering a request by Bell Atlantic/GTE for in-region, interLATA authority under 47 U.S.C. § 271, the Commission – in view of the public interest benefits inherent in compliance with the requirements of 47 U.S.C. § 271(d)(3) – shall not consider the possible expiration of any of the above Conditions per the terms of this Appendix to be a factor that would render the requested authorization inconsistent with the public interest, convenience, and necessity.

## ATTACHMENT A

### CARRIER-TO-CARRIER PERFORMANCE ASSURANCE PLAN

#### Availability of Reports

1. Bell Atlantic/GTE shall provide the Commission with performance measurement results,<sup>96</sup> on a monthly basis in an Excel spreadsheet format, demonstrating Bell Atlantic/GTE's monthly performance provided to the aggregate of all CLECs in the Bell Atlantic/GTE Service Area within each of the Bell Atlantic/GTE States, as compared to Bell Atlantic/GTE's retail performance (where applicable) or as compared to a benchmark. Bell Atlantic/GTE shall also provide the Commission, state commissions in the Bell Atlantic/GTE States, and CLECs with access to Bell Atlantic/GTE's Internet website<sup>97</sup>, where these parties can obtain performance measurement results demonstrating Bell Atlantic/GTE's monthly performance provided to the aggregate of all CLECs, as compared to Bell Atlantic/GTE's retail performance (where applicable). Bell Atlantic/GTE shall also provide the CLECs with access to Bell Atlantic/GTE's Internet website where a CLEC can obtain performance measurement results demonstrating Bell Atlantic/GTE's monthly performance provided to that same CLEC on an individual basis. All such CLEC-specific data shall be made available, subject to protective agreements or agency confidentiality rules, to the Commission on Bell Atlantic/GTE's Internet website, and will be made available for review, subject to protective agreements, by state commissions in the Bell Atlantic/GTE States.

2. Bell Atlantic/GTE's implementation of the Plan does not limit either the Commission's or the states' authority regarding performance monitoring, in the context of applications for in-region, interLATA relief under 47 U.S.C. § 271 or otherwise.<sup>98</sup>

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<sup>96</sup> These "performance measurement results" shall consist of the data collected according to the 17 performance measurements discussed in this Attachment, and listed in Attachments A-1a and A-1b.

<sup>97</sup> Availability via a single website will be phased in after merger. For the Bell Atlantic states, CLEC aggregate reports will be provided electronically as excel spreadsheets. CLEC specific reports, for those CLECs requesting individual reports, will be sent on electronic media via overnight mail and then via a Bell Atlantic web site via FTP. For the GTE states, reports will be available on the GTE website. Within six months of the merger, a single website will be available for all reports.

<sup>98</sup> The Commission notes that Bell Atlantic/GTE's Plan constitutes the Applicants' voluntary proposal for monitoring and remedying the specific potential public interest harms associated with the merger. Performance programs being developed by state commissions, particularly in the context of section 271 proceedings, serve a different purpose and may be designed to cover more aspects of local competition.

3. The performance measurements, benchmarks, and statistical methods utilized in the Plan were based upon those developed in the New York and California collaborative processes, with modifications to provide greater clarity or greater uniformity between measurements for the Bell Atlantic states and the GTE states.<sup>99</sup>

4. Bell Atlantic/GTE and the Chief of the Common Carrier Bureau shall jointly review the Bell Atlantic/GTE measurements on a semi-annual basis, to determine whether measurements should be added, deleted, or modified. Bell Atlantic/GTE shall provide the Chief of the Common Carrier Bureau with notice of any changes to the design or calculation of these measurements adopted by the New York or California State commissions. The Chief of the Common Carrier Bureau shall, at the next semi-annual review, determine whether and when Bell Atlantic/GTE shall implement such changes adopted by the New York State Public Service Commission in the Bell Atlantic States that utilize the changed plan and whether and when Bell Atlantic/GTE shall implement such changes adopted by the California Public Utility Commission in the GTE States that utilize the changed plan. Bell Atlantic/GTE and Commission staff shall meet within 60 days of the Merger Closing Date to agree on the format for the measurement reports.

### **Performance Measurements**

5. In each Bell Atlantic/GTE State, the Plan shall consist of 17 measurement categories of performance that may have a direct and immediate impact upon a CLEC's end user customer.<sup>100</sup> The 17 performance measurement categories are designed to demonstrate whether Bell Atlantic/GTE is providing parity or benchmark performance in its Service Areas to each CLEC. Attachments A-1a and A-1b provide a list of the 17 performance measurement categories, and Attachments A-2a and A-2b provide a description of the definitions, exclusions, business rules, levels of disaggregation, calculation, and reporting structure for each of the 17 performance measurement categories.

6. Where Bell Atlantic/GTE provides a CLEC with a service that has a retail analog, the performance Bell Atlantic/GTE provides to its own retail operations within a state shall be compared with the performance Bell Atlantic/GTE provides to the CLEC within the same state to determine if parity exists. Where Bell Atlantic/GTE provides a CLEC a service for which

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<sup>99</sup> The fact that these modifications were made should not be interpreted as reflecting the Commission's preference for these modifications over the business rules approved by the New York Public Service Commission or the California Public Utility Commission.

<sup>100</sup> The Commission reiterates that Bell Atlantic/GTE's selection of these 17 measurements for the purpose of this merger-related Plan has no necessary bearing on the appropriate scope of a performance assurance plan designed in the section 271 context. As noted above, performance programs developed by state commissions, particularly in the context of section 271 proceedings, may be designed to cover more aspects of local competition.

there is no retail analog, the performance Bell Atlantic/GTE provides to the CLEC within a state shall be compared with a benchmark.

7. Generally accepted statistical analyses – *i.e.*, modified Z-tests and a critical Z-value – shall be utilized to determine whether Bell Atlantic/GTE is in parity or has met the benchmark. Attachment A-3 provides a description of how these statistical analyses shall be used.

### **Voluntary Payments**

8. The Plan shall also consist of voluntary payments to the U.S. Treasury, with monthly and annual caps for the Bell Atlantic/GTE Service Area (allocated on a per state basis). The 17 performance measurement categories are designated as being in either the High, Medium, or Low payment level. Attachments A-5a and A-5b provide a list of the 17 performance measurements and the payment level that applies each year. Attachment A-4 provides a table of the voluntary payments, setting forth the per occurrence and per measurement payments at the High, Medium, and Low levels, and the caps for those measurements where voluntary payments are made on a per occurrence basis with a cap. Attachment A-6 provides the per state monthly and annual caps that apply each year. The obligation to make these voluntary payments in all Bell Atlantic/GTE States attaches 270 days after the Merger Closing Date.

9. Bell Atlantic/GTE shall make voluntary payments to the U.S. Treasury if Bell Atlantic/GTE fails to provide parity or benchmark performance to the aggregate of all CLECs operating in the Bell Atlantic/GTE Service Area in any Bell Atlantic/GTE State on any measurement<sup>101</sup> for either (1) 3 consecutive months, or (2) 6 months or more in a Performance Plan Year, as determined by use of the modified Z-tests and a critical Z-value. A “Performance Plan Year” is the first twelve full calendar months that begin after the 270th day after the Merger Closing Date and each succeeding twelve full calendar months after the first Performance Plan Year. Voluntary payments for each Bell Atlantic/GTE State shall be made on a per occurrence or per occurrence with a cap basis for measurements listed in Schedule A and on a per measurement basis for measurements in Schedule B of Attachments A-1a and A-1b, applying the statistical analyses and the calculations described in Attachment A-3, the payment level for the measurements in Attachments A-5a and A-5b, and the per-occurrence and per-measurement voluntary payment amounts set forth in Attachment A-4. The voluntary payments shall be calculated on the rolling average of occurrences or measurements, as appropriate, where Bell Atlantic/GTE has failed to provide parity or benchmark performance for 3 consecutive months.<sup>102</sup>

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<sup>101</sup> The word “measurement” in this context does not refer to the 17 measurement categories listed in Attachment A-1a and A-1b, but instead refers to each disaggregated sub-measurement into which the 17 performance measurement categories are divided. Bell Atlantic/GTE shall make a voluntary payment as required for any disaggregated sub-measurement.

<sup>102</sup> In other words, Bell Atlantic/GTE will make a voluntary payment in the event it fails to provide parity or benchmark performance for three consecutive months, and another payment if the failure continues for a fourth

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If Bell Atlantic/GTE fails to provide parity or benchmark performance in any Bell Atlantic/GTE State for 6 or more months in a Performance Plan Year, the voluntary payments shall be calculated as if all such months were missed consecutively.<sup>103</sup>

10. In order to ensure that CLECs ordering low volumes of certain resold local services and UNEs, and CLECs operating in emerging markets, receive parity and benchmark performance, Bell Atlantic/GTE shall increase the voluntary payments calculated in accordance with Paragraph 9 for certain “qualifying sub-measurements.”<sup>104</sup> A “qualifying sub-measurement” is a disaggregated sub-category covering performance for certain resold services and UNEs for the following eight Bell Atlantic and GTE measurements: PR-3, PR-4, PR-5, PR-6, MR-2, MR-3, MR-4, and MR-5. For Bell Atlantic states, the covered services are UNE platform; resale 2-wire digital loops (ISDN); UNE 2 Wire xDSL Loops; UNE 2 Wire Digital Loops (ISDN). For GTE States, the covered services are UNE-platform; UNE Loop xDSL Capable; and Resale Specials. For these qualifying sub-measurements; the voluntary payments calculated using the 3 month rolling average described in Paragraph 9 above shall be multiplied by a factor of 3 under the following circumstances and pursuant to the following methodology. The provisions of this Paragraph 10 only apply in the event that a voluntary payment is owed for a qualifying sub-measurement per the provisions of Paragraph 9 (*i.e.*, this Paragraph only applies in the event that Bell Atlantic/GTE has failed to provide parity or benchmark performance on a qualifying sub-measurement for 3 consecutive months or in 6 or more months in a performance plan year).

a. Qualifying Sub-Measurements. If, for the 3 months that are utilized to calculate the rolling average, there were 100 or more observations on average per month for the qualifying sub-measurement, then no increase in voluntary payments is owed pursuant to the provisions of this Subparagraph. If, for the 3 months that are utilized to calculate the rolling average, there were more than 10 but less than 100 observations on average per month for the qualifying sub-measurement, then Bell Atlantic/GTE shall calculate the voluntary payments to the U.S. Treasury for that qualifying sub-measurement in accordance with Paragraph 9 and shall treble the amount of such voluntary payments for that qualifying sub-measurement.

b. When Bell Atlantic/GTE and the Chief of the Common Carrier Bureau jointly review the 17 measurement categories on a semi-annual basis in accordance with

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consecutive month, and so on. In each case, the payment will be calculated according to the rolling average of occurrences for the last three consecutive out-of-parity months. For example, if Bell Atlantic/GTE is out of parity on a measurement for January, February, and March, it would make a payment based on the January-February-March average; if it is also out of parity for the same measurement in April, it would make another payment, based on the February-March-April average.

<sup>103</sup> In other words, four payments would be made in a year where a measure is out of parity for six months (and five payments in a year where a measure is out of parity for seven months, and so on).

<sup>104</sup> The term “qualifying sub-measurements” applies to 38 disaggregated sub-measurements for Bell Atlantic, and to 28 disaggregated sub-measurements for GTE, as set forth on the attached charts.

Paragraph 4, the Chief of the Common Carrier Bureau may substitute, on a one-for-one basis, the sub-measurements associated with any other existing service or UNE within measurements PR-4 for the initial set of qualifying sub-measurements.<sup>105</sup> During this semi-annual review, the Chief of the Common Carrier Bureau may also increase the number of qualifying sub-measurements by including, from the list of qualifying measurements, the sub-measurements associated with new services and/or UNEs as qualifying sub-measurements. The Chief of the Common Carrier Bureau may add a maximum of 3 such new services and/or UNEs over the duration of the Plan.

11. The monthly and annual caps on the total amount of voluntary payments for which Bell Atlantic/GTE shall be liable, as provided for in Attachment A-6, may be reduced by an amount up to \$125 million in the third year of the Plan if Bell Atlantic/GTE completes the OSS interface and business rule changes provided for in Paragraphs 18-19 by a date that is sooner than the target dates specified in such Paragraphs, as follows:

a. The monthly and annual caps on the total amount of voluntary payments for which Bell Atlantic/GTE shall be liable may be reduced by an amount up to \$75 million during the third 12 month period if Bell Atlantic/GTE completes the OSS enhancement commitments in Paragraphs 18-19 of the Conditions in the Bell Atlantic Service Areas early and by an amount up to \$50 million during the third 12 month period if Bell Atlantic/GTE completes the commitments in Paragraphs 18-19 of the Conditions in the GTE Service Areas early. The amount of the reduction will correspond to the number of days early by which Bell Atlantic/GTE completes the commitments in Paragraphs 18-19 as follows:

Number of Days Early	Annual Cap Reduction if OSS Enhancements are Completed Early in Former Bell Atlantic Service Areas	Annual Cap Reduction if OSS Enhancements are Completed Early in Former GTE Service Areas
30	\$ 6 Million	\$ 4 Million
60	\$ 12 Million	\$ 8 Million
90	\$ 18 Million	\$ 12 Million
120	\$ 24 Million	\$ 16 Million
150	\$ 30 Million	\$ 20 Million
180	\$ 36 Million	\$ 24 Million
210	\$ 42 Million	\$ 28 Million
240	\$ 48 Million	\$ 32 Million
270	\$ 54 Million	\$ 36 Million

<sup>105</sup> The Chief of the Common Carrier Bureau may elect to substitute, for example, all "qualifying sub-measurements" relating to resale 2-wire digital loops (ISDN) (i.e., PR-4-02, PR-4-04, PR-4-05) with the corresponding sub-measurements relating to another resold service or UNE (such as resold DS1 service, or a new resold service which Bell Atlantic/GTE may offer in the future).



300	\$ 61 Million	\$ 40 Million
330	\$ 68 Million	\$ 45 Million
360	\$ 75 Million	\$ 50 Million

b. Any required reductions in the annual cap during the third 12-month period pursuant to Subparagraph (a) above shall be prorated across all Bell Atlantic/GTE States and apportioned to monthly caps utilizing the same ratios used to develop the tables in Attachment A-6.

12. The amount of payments otherwise due each month under this Plan in a state shall be offset by the sum of (1) the amount of any payments made by Bell Atlantic/GTE to private or public parties (including, but not limited to, CLECs, state commissions, state governments, public interest funds or groups, or other entities) each month under any state-approved local interconnection performance monitoring or performance measurement plan in that state, and (2) the amount of payments made by Bell Atlantic/GTE related to performance measurements paid to CLECs each month in that state under the terms of an approved local interconnection agreement with Bell Atlantic/GTE. Provided, however, that the amount of any payments made to affiliates of Bell Atlantic/GTE shall not be used in calculating the offset.

13. Performance measurement results for each month shall be available to the Commission, state commissions and CLECs by the 25th day of the following month. If Bell Atlantic/GTE becomes liable for voluntary payments to the U.S. Treasury, such payments shall be made 30 days after the performance measurement results become available. If such payments are made, Bell Atlantic/GTE shall provide notice to the Commission within 5 business days after the payment is made.

14. Bell Atlantic/GTE shall not be liable for voluntary payments to the U.S. Treasury if Bell Atlantic/GTE's failure to provide parity or benchmark performance is attributable to an atypical event beyond the control of Bell Atlantic/GTE such as an Act of God, or a *force majeure* event. Bell Atlantic/GTE shall engage in "root cause analysis" to demonstrate that an apparent out-of-parity condition was attributable to an atypical event beyond the reasonable control of the ILEC. If Bell Atlantic/GTE determines through "root cause analysis" that it failed to provide parity or benchmark performance only due to conditions outside the reasonable control of the ILEC, Bell Atlantic/GTE may seek a waiver from the Chief of the Common Carrier Bureau relieving Bell Atlantic/GTE from voluntary payments to the U.S. Treasury. Bell Atlantic/GTE shall have the burden of proof to make the required showing, and shall have a right of appeal to the Commission. If Bell Atlantic/GTE seeks such a waiver, Bell Atlantic/GTE shall place the voluntary payments at issue into an interest bearing escrow account. If Bell Atlantic/GTE fails to carry its burden of proof, the amount of voluntary payments paid into the escrow account, including any accrued interest, shall be remitted to the U.S. Treasury. If Bell Atlantic/GTE carries its burden of proof, the amount of voluntary payments paid into the escrow account, including any accrued interest, shall be returned to Bell Atlantic/GTE.

15. Voluntary payments made by Bell Atlantic/GTE under the Plan shall not be reflected in the revenue requirement of any Bell Atlantic/GTE incumbent LEC.

16. The measurements and benchmarks under the Plan bear no necessary relationship to the standard of performance that satisfies Bell Atlantic/GTE's legal obligations in a particular state, and payments under the Plan shall not constitute an admission by Bell Atlantic/GTE of any violation of law or noncompliance with statutory or regulatory requirements with respect to the provision of local facilities or services to Bell Atlantic/GTE's wholesale or retail customers.